

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-185

July 19, 2000

PUBLIC UTILITIES COMMISSION
Investigation of Retail Electric Transmission
Services and Jurisdictional Issues

STIPULATION

The undersigned parties to the above-captioned proceeding (“Parties”) hereby enter into this Stipulation in order to settle all remaining issues bearing on the above-captioned proceeding, and thereby avoid further litigation.

THE PARTIES TO THE STIPULATION STIPULATE AND AGREE THAT:

1. **Overview of Regulatory Proceedings.** As part of its responsibility to implement the state’s Restructuring Act, the Commission initiated an investigation into Central Maine Power Company’s (“CMP”) transmission and distribution revenue requirements and rate design (Docket No. 97-580, “Mega Rate case”). During that proceeding, issues were raised regarding respective federal and state jurisdiction and the impact of the Federal Energy Regulatory Commission’s (“FERC”) transmission policies and regional transmission rules on the pricing and terms of retail transmission service. In the Mega Rate case, the Commission noted that FERC Order 888 states that FERC had exclusive jurisdiction over the rates, terms, and conditions of retail transmission when generation is unbundled and offered as a retail product separate from delivery service. In addition, FERC required utilities to consult with their state regulatory authorities prior to filing transmission/distribution facility classifications and cost allocations, and encouraged utilities and the state commissions to reach agreement in these areas. This Stipulation reflects such agreement.

2. In its March 19, 1999 Order in Docket No. 97-580, the Commission announced that it would initiate a generic investigation into retail transmission matters in this Docket No. 99-185. The primary issue that the Commission sought to examine is the jurisdictional split between FERC-regulated transmission facilities and state-regulated distribution facilities commencing with retail open access on March 1, 2000 and the related ratemaking implications. In Docket 97-580, the Commission, using 1996 test year data, set CMP's total revenue requirement and combined transmission and distribution prices and continued Docket No. 99-185 to determine the distribution component of that revenue requirement and distribution prices over which the Commission has jurisdiction.

3. Concurrently, CMP filed FERC jurisdictional transmission rates to become effective on March 1, 2000. FERC set the rates for hearing in Docket Nos. ER00-982-000, *et al.* to determine whether those rates were just and reasonable. CMP and the other parties to Docket No. ER00-982-000 are engaged in settlement negotiations and have reached agreement in principle (the "Settlement") that sets the transmission revenue requirements based on 1998 and 1999 test years. The Settlement also conforms the treatment of certain retail issues, such as customer costs, to be consistent with this Stipulation in Docket No. 99-185 and sets forth the specific methodology for determining the amount of congestion costs to be included in rates effective September 1, 2000 and thereafter.

4. **Summary of Revenue Requirement.** CMP's total revenue requirement including stranded costs as approved by the Commission in Docket No. 97-580 was \$415,130,000. To determine its distribution ("D") revenue requirement of \$376,676,000, CMP subtracted from the total revenue requirement of \$415,130,000, the 1998 test year based transmission ("T") revenue requirement of \$38,454,000 as filed by CMP in Docket ER00-982-000 on December 30, 1999.

The FERC allowed CMP's proposed transmission revenue requirement to go into effect as of March 1, 2000, subject to refund.

5. Subsequent to the Commission's Order in Docket No. 97-580, CMP performed a detailed separation analysis in Docket No. 99-185 to derive independently a D revenue requirement. The results of that analysis produce a D revenue requirement including stranded costs of \$377,147,000. See CMP's April 28, 2000 filing in Docket No. 99-185. D was derived in Docket No. 99-185 following the FERC seven factor analyses and adjusted based on comments received from the Commission Advisory Staff and parties during technical conferences held on April 3, 2000 and April 14, 2000. This D revenue requirement reflects the expected outcome of CMP's T rate litigation at FERC to which an agreement in principle has been reached by all active parties in the case and an uncontested Settlement agreement is being circulated. Once the parties execute the Settlement agreement, it will be filed with FERC for approval as discussed in Paragraph 6 below.

6. **FERC Transmission Proceedings and Associated T&D Rates Implementation.** On June 5, 2000, CMP filed with the Commission a change to its March 1, 2000, retail transmission rates as shown in Term and Conditions 44.1 to reflect the update of its transmission revenue requirement to the 1999 test year. The update reflected an increase of \$7,400,000 in CMP's transmission revenue requirement. The updated revenue requirement, which did not reflect the terms of the FERC Settlement, became effective June 1, 2000. In order that prices for customers not change at that time, CMP determined D rates effective June 1, 2000, by subtracting the T rates (based upon the updated transmission revenue requirement) from the T&D rates approved in Docket No. 97-580. In other words, CMP reduced its D revenue requirement by the same

\$7,400,000. CMP also filed revised rate schedules LGS-ST-TOU, LGS-T-TOU, SB-LGS-ST-TOU and SB-LGS-T-TOU to reflect the new D rates.

7. For the months of June, July, and August 2000, CMP shall defer \$725,000, plus carrying costs, which constitutes a sum to which the parties agree CMP is entitled for recovery in D rates in the first Maine jurisdictional price change occurring after September 1, 2000. This amount is the sum that should have been collected in D rates for this period as shown in Stipulation Attachment 1.

8. As stated above, the active parties have reached an agreement in principle which settles all issues in Docket No. ER00-982-000. The Settlement addresses retail issues that are part of the proceeding. CMP will request that the FERC Settlement be put in place on an interim basis, effective September 1, 2000, pending final approval. The parties to the Stipulation that are also parties to the FERC Settlement agree to execute the FERC Settlement reflecting the terms of this Stipulation. Effective September 1, 2000, CMP will separate T&D prices with the T rate based upon 1999 test year data reflecting the terms of the FERC Settlement agreement (See Paragraph 9 below) and the D rate will be based on a revenue requirement of \$377,147,000 and the Docket No. 97-580 billing units.

9. Under Paragraph 7.2 of the FERC Settlement, CMP is entitled to include in its transmission revenue requirement the level of congestion costs incurred during the period June 1999 through May 2000 amounting to \$5,700,000. However, in order to reduce price impacts for distribution level retail customers on September 1, 2000, the parties agree that CMP shall include up to \$3,900,000 of congestion costs in its transmission revenue requirement resulting from the FERC Settlement. For the period June 2001 through May 2002, the parties agree that CMP shall include no more that \$8,900,000 of congestion costs in distribution level rates. Pursuant to

Paragraph 7.2 of the FERC Settlement, beginning on March 1, 2000, CMP shall defer with carrying costs the difference between actual congestion costs incurred and costs recovered in rates from customers for recovery in distribution level rates in the future.

Additionally, the parties agree that, as a one-time nonrecurring adjustment, CMP will reduce the transmission revenue requirement resulting from the FERC Settlement by \$5,000,000, an amount reflecting removal of non-recurring items agreed to by the parties. Including the \$3,900,000 of congestion costs and the one-time nonrecurring adjustment, CMP's transmission revenue requirement pursuant to the proposed FERC Settlement to be put in retail rates beginning September 1, 2000 is \$48,800,000. See Attachment 2.

10. Classification of Facilities. The Commission agrees to adopt the classification of facilities into transmission and distribution as proposed by CMP in its July 26, 1999 filing in this proceeding. In addition, an agreement was reached as part of the FERC Settlement, Paragraph 1.14, that will set wheeling out charges for generators connected to CMP's local transmission system or distribution system. Accordingly, at this time, CMP will not reclassify distribution facilities utilized to connect generators to the transmission system and will not set separate distribution charges for wheeling out transactions. This provision does not prevent the parties from requesting a reclassification of these distribution facilities following the three-year effective period related to wheeling out charges for generators connected to CMP's local transmission system or distribution system in the pending FERC Settlement. Upon approval of this Stipulation, pursuant to FERC Order 888, CMP will request that FERC confirm the T&D split as adopted herein.

11. Compliance Filing. On or about July 21, 2000, CMP will file with the Commission retail prices, both D&T (based on the pending FERC Settlement and this Stipulation), to be

effective on September 1, 2000. CMP also will provide data showing the impacts of the anticipated price changes on customers effective September 1, 2000. CMP shall allocate its T revenue requirement to rate classes using 1999 average monthly coincident peak data, including impacts from behind-the-meter generation, consistent with the FERC Settlement. CMP will convert this allocation to rate classes into kWh or kW prices using 1999 billing units. The coincident peak amounts and billing units shall be actual and derived 1999 data

12. Standby Rate Issues. The parties agree that, beginning September 1, 2000, CMP shall eliminate Rates SB-IGS-S, SB-IGS-P, SB-LGS-S, SB-LGS-P, SB-LGS-ST, and SB-LGS-T and will allow standby customers to take service under either the comparable full service rate, Rate SB, or a combination of the full service rate and Rate SB. In addition, the parties agree that, beginning September 1, 2000, CMP will change its Rate SB availability language to allow customers to take service under Rate SB for usage above a minimum firm demand level. The parties agree that the “appropriate general service rate” as described in the Rate SB tariff is the core tariff applicable to full requirements customers taking service at the same voltage level as the standby customer. CMP agrees not to seek recovery of the revenue lost from these changes to its standby rates as a mandated cost in any alternative rate plan resulting from Docket No. 99-666. CMP will file the related tariff changes with the Commission with a requested September 1, 2000 effective date.

13. Legal Effect of this Stipulation. The execution of this Stipulation by any Party shall not constitute precedent as to any matter of law or fact nor, except as expressly proved herein, shall it foreclose any of the Parties from making any contention or exercising any right, including rights of appeal, in any other Commission proceeding or investigation, or any other trial or action.

The Parties intend that this Stipulation be considered by the Commission for adoption as an integrated solution to the issues addressed herein which arose in the above-captioned proceeding and as otherwise presented in this Stipulation. The parties also intend that this Stipulation shall be null and void, and not bind the parties in the above-captioned proceeding in the event the Commission does not adopt this Stipulation without material modification or in the event that the parties do not reach a settlement in the FERC OATT proceeding or the pending FERC Settlement is modified prior to approval by the FERC where such modifications materially impact the terms of this Stipulation.

14. If not accepted by the Commission in accordance with the provisions hereof, this Stipulation shall not prejudice the positions taken by any Party on these issues before the Commission in this proceeding and shall not be admissible evidence therein or in any other proceeding before the Commission.

Respectfully submitted this 19th day of July, 2000.

OFFICE OF THE PUBLIC ADVOCATE

By: _____

CENTRAL MAINE POWER COMPANY

By: _____

INDUSTRIAL ENERGY CONSUMERS GROUP

By: _____

INDEPENDENT ENERGY PRODUCERS OF MAINE

By: _____

cc: Service List, Docket No. 99-185

Attachments:

- (1) Recovery of Distribution Revenue Requirement Foregone
- (2) CMP T&D Revenue Requirement Pursuant to Stipulation